

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4735 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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G.F. NAINWALE

Versus

DY INSPECTOR GENERAL (COMMUNI)

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Appearance:

MR NANDLAL THAKKAR for Petitioner  
Ms MANISHA LAVKUMAR, AGP i/b M/S MG DOSHIT  
& CO for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/08/1999

#### ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner, a Head Wireless Operator in the Police Department, has prayed for a direction to the respondents to treat the petitioner as a member of Halba caste which is recognized as Scheduled Tribe and to award him all the service benefits by considering him as an S.T. candidate and to refix his seniority in the higher grade accordingly.

2. In support of the petition, the petitioner has relied on the Scheduled Castes and Scheduled Tribes

Orders (Amendment) Act, 1976 and contended that Halba community is declared as a Scheduled Tribe in the State of Maharashtra and on that basis the petitioner is also entitled to get all the benefits in Gujarat.

3. The learned AGP for the respondents has produced a photostat copy of the said gazette notification dated 20.9.1976 containing the aforesaid Act and points out that Halba community is recognized as a Scheduled Tribe only in the State of Maharashtra but not in the State of Gujarat and, therefore, the State Government relies on the decision of the Apex Court in Action Committee on issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in State of Maharashtra vs. Union of India, 1994 (5) SCC 244.

4. In view of the provisions of the aforesaid Act and the decision of the Apex Court, it is clear that merely because Halba community is recognized as a Scheduled Tribe in Maharashtra State, it does not mean that the State of Gujarat is required to give members of that community the service benefits which are otherwise made available to Scheduled Tribes recognized for the State of Gujarat. The controversy is squarely covered by the aforesaid decision of the Apex Court.

5. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

August 18, 1999 (M.S. Shah, J.)

sundar/-